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ARENT FOX LLP 1050 CONNECTICUT AVENUE, N.W. SUITE 400 WASHINGTON, DC 20036			EXAMINER KWEXINSKI, RYAN D	
			ART UNIT 3635	PAPER NUMBER
			NOTIFICATION DATE 04/03/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCIPDocket@arentfox.com  
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Patent\_Mail@arentfox.com

**Office Action Summary****Application No.**

10/534,056

**Applicant(s)**GARCIA-FUENTES DE LA  
FUENTE, JUAN**Examiner**

RYAN D. KWIECINSKI

**Art Unit**

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 5/6/2005
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

Reference number 24.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the base for leveling the external structure with the soil, the opening mechanism, reinforcing cross beams,

the inferior perimetral entrance must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph**, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claims 1-5**, the claim language is vague and confusing. It is unclear which limitations the descriptions are referring. (some examples below)

**Starting in claim 1, line 4**, the claim recites "in the interior containing a cabinet"; this cabinet is placed on top of a concrete base. Then it is unclear whether the internal cabinet is erected on top of the base or on top of the first mentioned cabinet and also is the concrete base layer made from metals sheets and vinyl or is that referring to the cabinet on the interior? Are the bolts provided on the base or on the cabinet?

**Starting in claim 2, line 4**, the recitation "containing in the inferior a base for leveling the external structure with the soil" is this the same base as mentioned above in claim 1, or is this a completely different base? Line 8, which base is being referred? or are the bases the same base? The recitation "zenithal closing" is very vague and indifferent, this should be rewritten to say for example,--at the top of the structure is a roof-- or --at the uppermost portion of the structure is a roof--.

The claims need to be restructured to and rewritten to abide with proper grammar, etc.

**Claim 1** recites the limitation "the exterior side" in 3. There is insufficient antecedent basis for this limitation in the claim.

**Claim 1, line 4**, the recitation "looks like a telephone cabin" is vague, indefinite, and confusing. It is unclear whether the recitation is being claim or not.

**Claim 1** recites the limitation "the excavation" in line 5. There is insufficient antecedent basis for this limitation in the claim.

**Claim 1** recites the limitation "the polygonal configuration" in 7. There is insufficient antecedent basis for this limitation in the claim.

**Claim 1, line 9**, it is unclear what "closed on the superior by four lifting bolts" means.

**Claim 2** recites the limitation "the flat tables spaces" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

**Claim 2** recites the limitation "the inferior space" in line 4. There is insufficient antecedent basis for this limitation in the claim.

**Claim 2** recites the limitation "the four pillars" in lines 8. There is insufficient antecedent basis for this limitation in the claim.

**Claim 2** recites the limitation "the hood" in line 8. There is insufficient antecedent basis for this limitation in the claim.

**Claim 2** recites the limitation "the zenithal closing" in lines 8-9. There is insufficient antecedent basis for this limitation in the claim.

**Claim 2** recites the limitation "the sides" in line 10. There is insufficient antecedent basis for this limitation in the claim.

**Claim 2** recites the limitation "the largest flanks" in lines 10-11. There is insufficient antecedent basis for this limitation in the claim.

**Claim 2** recites the limitation "the sliding doors" in line 11. There is insufficient antecedent basis for this limitation in the claim.

**Claim 2** recites the limitation "the door" in line 13-14 and 15. There is insufficient antecedent basis for this limitation in the claim.

**Claim 2** recites the limitation "the room" in line 14 and 15. There is insufficient antecedent basis for this limitation in the claim.

**Claim 3** recites the limitation "the doors" in line 2. There is insufficient antecedent basis for this limitation in the claim.

**Claim 3** recites the limitation "the parts for illumination" in line 3. There is insufficient antecedent basis for this limitation in the claim.

**Claim 3** recites the limitation "the opening mechanism" in line 3-4. There is insufficient antecedent basis for this limitation in the claim.

**Claim 4** recites the limitation "the remaining sides" in line 2. There is insufficient antecedent basis for this limitation in the claim.

**Claim 4** recites the limitation "the main body" in line 2-3. There is insufficient antecedent basis for this limitation in the claim.

**Claim 4, line 5**, it is unclear what "normal" height and "reduced" height means? The words "normal" and "reduced" are relative terminology and makes the claim vague, indifferent, and confusing. Normal and reduced compared to what?

**Claim 4** recites the limitation "the platforms" in line 8. There is insufficient antecedent basis for this limitation in the claim.

**Claim 4** recites the limitation "the doors" in line 9. There is insufficient antecedent basis for this limitation in the claim.

**Claim 4** recites the limitation "the inferior part of the telecontrol panel " in line 10-11. There is insufficient antecedent basis for this limitation in the claim.

**Claim 4** recites the limitation "the cables" in line 11. There is insufficient antecedent basis for this limitation in the claim.

**Claim 4, lines 11-12**, it is very unclear what is being claimed regarding the cables. Is the Applicant claiming cables? cable guiding? What exactly is cable guiding?

**Claim 5** recites the limitation "the heat" in line 2. There is insufficient antecedent basis for this limitation in the claim.

**Claim 5** recites the limitation the four pillars " in line 3. There is insufficient antecedent basis for this limitation in the claim.

**Claim 5, lines 3-4**, the recitation "function like a chimney" is vague, indefinite, and confusing. It is unclear whether the recitation is being claim or not. Are the pillars chimneys?

**Claim 5** recites the limitation "the inferior parts" in line 4. There is insufficient antecedent basis for this limitation in the claim.

**Claim 5** recites the limitation "the faces of the fronts" in line 5. There is insufficient antecedent basis for this limitation in the claim.

**Claim 5** recites the limitation "the superior part of the cabinet" in line 5. There is insufficient antecedent basis for this limitation in the claim.

**Claim 5** recites the limitation "the lower part of the hood" in lines 6-7. There is insufficient antecedent basis for this limitation in the claim.



**Claim 5** recites the limitation "the lower part of the doors" in line 8. There is insufficient antecedent basis for this limitation in the claim.

**Claim 5, lines 9**, it is unclear exactly what "to carry publicity" means.

**Claims have been examined as best understood.**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 1,474,864 to Vogt et al in view of US 6,969,130 B2 to Newton Jr. in view of 5,476,316 to Batrone et al. in view of 4,417,527 to Williams et al.**

**Claim 1:**

Vogt discloses a center with a polygonal shape (Fig.1) with an exterior side (outside of the center) with a cabinet (interior of the center) which is bolted to a concrete base (49, Fig.4).

Vogt does not specifically disclose the polymer and metal sheet that form the center or the four lifting bolts.

Newton Jr. discloses the polymer and metal sheets forming the center (Column 3, lines 17-53).

Batroney disclose lifting bolts (the lifting bolts located on 11, Fig.1) to reposition the center.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the center from vinyl and metal since those materials are notoriously well known for their durability and strength. The materials are also aesthetically appealing. It also would have been obvious to have provided the center of Vogt with lifting bolts in order to easily reposition or move the center with the assistance of a crane or some type of lifting machine. It also would have been obvious to have provided the center with 4 lifting bolts in order to equally support the load and distribute the load of the center upon lifting.

The claim is filled with recitations of intended use which do not further limit the structure of the claims. The centers of Vogt are capable of performing the intended uses of the center.

The recitations are "special urban transformation", "with the purpose to house in its interior a transformer, medium voltage cells, a low voltage panel, and a telecontrol panel", "looks like a telephone cabin", and "fits into the excavation in the ground".

**Claim 2:**

Vogt discloses closets (closets behind doors 25) below the flat table spaces (17) the bottom of the closets forming a base (lower portion of the closets formed by doors

25) for leveling the external structure with the soil. Vogt also discloses reinforced cross beams (vertical and horizontal beams shown in Fig.3) and four pillars (corners of the center) with a hood (15). The hood formed a zenithal closing (15) with an elliptical shape (the cross section is half elliptical shape). The sides are equipped with sliding doors (21, 22) and transparent windows (window in 21) which give access to the closet.

Newton Jr. discloses the material of the hood (Column 3, lines 17-53).

The claim is filled with recitations of intended use which do not further limit the structure of the claims. The centers of Vogt are capable of performing the intended uses of the center.

The recitations are "used to house the low voltage panel and the telecontrol panel", which permit the placing of vertical urban advertising posters".

**Claim 3:**

Vogt discloses the doors which are capable of carrying advertisements and an opening mechanism (hinges).

It would have been obvious at the time of the invention to have added illumination to the door of the center in order to allow the door/center to be lit up.

Providing lighting is notoriously well known in the art.

**Claim 4:**

Vogt discloses the platforms in the walls and the walls of the center having doors and windows but does not provide telephone cabins or computer touch screens.

Williams discloses providing a touch screen panel in the wall of the center. It would have been obvious to have provided whatever mechanisms that were desired in the walls of the center. If it was desired to provide a telephone center than a telephone should be formed in the wall. If the center was designed for banking then an ATM or other touch screen should be provided in the all. The addition of well known electronic devices is well known in the art. Also is the center was designed in order to handle electronic equipment it would have been obvious to have provided voltage cases such as Newton Jr. discloses providing closest for electrical equipment.

Claim 5:

Vogt does not specifically disclose using pillars to eliminate heat from the center, but Vogt, like Newton Jr., Williams, and Batrone, discloses providing the center with many means to eliminate heat from the center. Vogt provides windows, doors, sliding doors, closet doors, and a hollow hood which would catch the heat and let the heat dissipate through openings out through the holes for the megaphone shown in Fig.3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the center of Vogt with pillars that had active means for eliminating heat from the center. It is important to have an outlet for heat in an enclosed center so as to keep the center at a reasonable temperature.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN D. KWIECINSKI whose telephone number is (571)272-5160. The examiner can normally be reached on Monday - Friday from 9 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571)272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./  
Supervisory Patent Examiner, Art Unit 3635

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